

Requested by Representative HOLVEY

**PROPOSED AMENDMENTS TO
A-ENGROSSED HOUSE BILL 4002**

1 On page 3 of the printed A-engrossed bill, delete lines 37 through 45 and
2 delete page 4.

3 On page 5, delete lines 1 through 40 and insert:

4 **“SECTION 6a. (1) No later than November 30, 2026, and every six**
5 **years thereafter, the Employment Department, in consultation with**
6 **the Bureau of Labor and Industries, the Department of Revenue and**
7 **the State Department of Agriculture, shall submit a report, in the**
8 **manner provided in ORS 192.245, to the interim committees of the**
9 **Legislative Assembly related to agriculture, on the identified economic**
10 **impacts of the overtime compensation requirements under section 2**
11 **of this 2022 Act.**

12 **“(2) The report must consider all available relevant data related to**
13 **the overtime compensation requirements under section 2 of this 2022**
14 **Act for calendar years 2023, 2024, 2025 and 2026 and must include, but**
15 **need not be limited to, an examination of the following:**

16 **“(a) Employment, wages and hours worked by agricultural workers**
17 **whose employment is subject to ORS chapter 657.**

18 **“(b) The total amount of wages paid to agricultural workers whose**
19 **employment is subject to ORS chapter 657.**

20 **“(c) Employment, wages and hours worked in the agricultural sec-**
21 **tor by quarter, including job vacancies available in natural resources,**

1 by quarter.

2 “(d) Employment, wages and hours worked, separated by size of
3 employer and agricultural sector.

4 “(e) Recent national and regional trends related to the agricultural
5 workforce, including wages, employment and labor costs.

6 “SECTION 6b. The division of the Oregon Department of Adminis-
7 trative Services that serves as the office of economic analysis shall
8 include in the economic forecast for a biennium any available relevant
9 economic and wage data that relates to the agricultural economy in
10 this state as impacted by the operation of sections 2 and 8 of this 2022
11 Act.

12 “SECTION 6c. No later than September 30, 2022, the State Depart-
13 ment of Agriculture and the Oregon Business Development Depart-
14 ment shall make recommendations for legislation to a regular or
15 interim committee of the Legislative Assembly related to agriculture
16 regarding available options for establishing a grant program, loan
17 program or lending program to which \$10 million will be allocated for
18 the purpose of providing financial assistance to employers to mitigate
19 the costs associated with compliance with the overtime compensation
20 requirements under section 2 of this 2022 Act.

21 “SECTION 7. Sections 8 to 11 of this 2022 Act are added to and made
22 a part of ORS chapter 315.

23 “SECTION 8. (1) As used in this section and sections 9 and 10 of this
24 2022 Act:

25 “(a) ‘Agricultural worker’ has the meaning given that term in sec-
26 tion 1 of this 2022 Act.

27 “(b) ‘Eligible employer’ means an employer doing business in 2017
28 North American Industry Classification System code 111, crop pro-
29 duction, or code 112, animal production and aquaculture.

30 “(c) ‘Full-time equivalent employee’ means an employee or a com-

1 **ination of employees that perform at least 2,080 hours of work for an**
2 **employer in a calendar year.**

3 **“(2)(a) A credit against taxes that are otherwise due under ORS**
4 **chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317**
5 **or 318 is allowed for overtime compensation required under section 2**
6 **of this 2022 Act to be paid, for work performed in Oregon, by an eli-**
7 **gible employer to agricultural workers on an hourly basis. The amount**
8 **of the credit shall equal a percentage of the actual excess paid to ag-**
9 **ricultural workers during the calendar year in which the tax year be-**
10 **gins, as determined under section 9 of this 2022 Act.**

11 **“(b) A labor contractor licensed under ORS 658.410 may not claim**
12 **a credit under this section. An eligible employer may claim a credit**
13 **under this section for wages paid to workers recruited, solicited, sup-**
14 **plied or employed by a labor contractor on behalf of the eligible em-**
15 **ployer.**

16 **“(c) Notwithstanding ORS 317.090 (3), a credit under this section is**
17 **allowed against the tax imposed under ORS 317.090.**

18 **“(d) A credit is not allowed under this section for any overtime**
19 **wages paid to an employee who is exempt from the provisions of sec-**
20 **tion 2 of this 2022 Act as a member of the immediate family of the**
21 **employer.**

22 **“(3) Prior to claiming the credit allowed under this section, a tax-**
23 **payer is required to receive a notice of acknowledgment from the De-**
24 **partment of Revenue, as provided in section 10 of this 2022 Act, stating**
25 **the maximum amount of credit that the taxpayer may claim for the**
26 **calendar year.**

27 **“(4) If the amount allowable:**

28 **“(a) As a credit under this section against taxes imposed under ORS**
29 **chapter 316, when added to the sum of the amounts allowable as pay-**
30 **ment of tax under ORS 316.187 or 316.583, other tax prepayment**

1 amounts and other refundable credit amounts, exceeds the taxes im-
2 posed by ORS chapters 314 and 316 for the tax year after application
3 of any nonrefundable credits allowable for purposes of ORS chapter
4 316 for the tax year, the amount of the excess shall be refunded to the
5 taxpayer as provided in ORS 316.502.

6 “(b) As a credit under this section against taxes imposed under ORS
7 chapter 317 or 318, when added to the sum of the amount of estimated
8 tax paid under ORS 314.515 and any other tax prepayment amounts,
9 exceeds the taxes imposed by ORS chapters 314 and 317 for the tax year
10 (reduced by any nonrefundable credits allowable for purposes of ORS
11 chapter 317 for the tax year), the amount of the excess shall be re-
12 funded to the taxpayer as provided in ORS 314.415.

13 “(5) Any amount that is refunded to the taxpayer under this section
14 and that is in excess of the tax liability of the taxpayer does not bear
15 interest.

16 “(6) A nonresident shall be allowed the credit under this section.
17 The credit shall be computed in the same manner and be subject to
18 the same limitations as the credit granted to a resident. However, the
19 credit shall be prorated using the proportion provided in ORS 316.117.

20 “(7) If a change in the taxable year of the taxpayer occurs as de-
21 scribed in ORS 314.085, or if the Department of Revenue terminates the
22 taxpayer’s taxable year under ORS 314.440, the credit allowed under
23 this section shall be prorated or computed in a manner consistent with
24 ORS 314.085.

25 “(8) If a change in the status of a taxpayer from resident to non-
26 resident or from nonresident to resident occurs, the credit allowed
27 under this section shall be determined in a manner consistent with
28 ORS 316.117.

29 “(9) The Department of Revenue shall adopt rules for the purposes
30 of sections 8 to 11 of this 2022 Act, including policies and procedures

1 for providing notice to taxpayers regarding the credit allowed under
2 this section as required in section 10 of this 2022 Act.

3 **“SECTION 9. (1) The amount of credit allowed under section 8 of**
4 **this 2022 Act shall be equal to a percentage of the additional wages**
5 **paid as required overtime pay to agricultural workers by an eligible**
6 **employer, in excess of regular pay, as set forth in subsections (2) to**
7 **(5) of this section.**

8 **“(2) If during the calendar year the taxpayer employs more than 50**
9 **full-time equivalent employees and is not primarily engaged in the**
10 **business of dairying, the following percentages of excess wages paid**
11 **by the employer in a calendar year shall apply, for the following cal-**
12 **endar years:**

13 **“(a) 60 percent, for 2023 or 2024.**

14 **“(b) 45 percent, for 2025.**

15 **“(c) 30 percent, for 2026.**

16 **“(d) 15 percent, for 2027 or 2028.**

17 **“(3) If during the calendar year the taxpayer employs more than 25**
18 **but not more than 50 full-time equivalent employees, or employs more**
19 **than 25 full-time equivalent employees and is primarily engaged in the**
20 **business of dairying, the following percentages of excess wages paid**
21 **by the employer in a calendar year shall apply, for the following cal-**
22 **endar years:**

23 **“(a) 75 percent, for 2023.**

24 **“(b) 60 percent, for 2024 or 2025.**

25 **“(c) 50 percent, for 2026, 2027 or 2028.**

26 **“(4) If during the calendar year the taxpayer employs not more than**
27 **25 full-time equivalent employees and is not primarily engaged in the**
28 **business of dairying, the following percentages of excess wages paid**
29 **by the employer in a calendar year shall apply, for the following cal-**
30 **endar years:**

1 “(a) 90 percent, for 2023.

2 “(b) 80 percent, for 2024 and 2025.

3 “(c) 60 percent, for 2026, 2027 and 2028.

4 “(5) If during the calendar year the taxpayer employs not more than
5 25 full-time equivalent employees and is primarily engaged in the
6 business of dairying, the credit shall equal 100 percent of excess wages
7 paid by the employer.

8 “SECTION 10. (1) In order to receive a notice of acknowledgment
9 from the Department of Revenue in support of a tax credit allowed
10 under section 8 of this 2022 Act, a taxpayer shall submit to the de-
11 partment an application under this section. The application shall be
12 made in the form and manner prescribed by the department and must
13 be submitted by the taxpayer no later than January 31 following the
14 calendar year for which the taxpayer seeks credit.

15 “(2) The taxpayer must include with the application required under
16 this section the following:

17 “(a) The address and tax identification number of the taxpayer.

18 “(b) A statement by the taxpayer of the overtime hours worked and
19 overtime wages paid, on an hourly basis, to agricultural workers em-
20 ployed by the taxpayer and the amount of overtime wages paid by or
21 on behalf of the taxpayer as compensation to agricultural workers
22 during the calendar year. The taxpayer shall provide aggregate data
23 as to employees of the taxpayer who received overtime pay from the
24 taxpayer and those who did not.

25 “(c) The number of the license issued under ORS 658.410 to any la-
26 bor contractor used to recruit, solicit, supply or employ workers on
27 behalf of the taxpayer, or other permit or registration numbers issued
28 to the labor contractor.

29 “(d) If applicable, any license required under ORS 475C.065 or 571.281
30 or registration required under ORS 475C.792.

1 “(e) Any other information required by the department to verify the
2 identity of the taxpayer or the potential maximum amount of credit
3 allowed to the taxpayer under section 8 of this 2022 Act.

4 “(3) Upon receipt of an application under this section, the depart-
5 ment shall immediately allow an extension, from the next applicable
6 due date, for filing of the taxpayer’s income or corporate excise tax
7 return.

8 “(4) Not later than June 1 of the year in which the application un-
9 der subsection (1) of this section is filed, the department shall issue
10 written notice to taxpayers that meet the application requirements of
11 this section. The notice of acknowledgment shall state the maximum
12 amount of credit for which the taxpayer is eligible for the tax year.
13 The credit claimed may not exceed the actual amount of excess paid
14 as overtime wages to agricultural workers during the calendar year
15 by the taxpayer.

16 “SECTION 11. The total amount allowed for tax credits for overtime
17 wages under section 8 of this 2022 Act, as acknowledged in notices
18 provided by the Department of Revenue under section 10 of this 2022
19 Act, may not exceed \$55 million for all taxpayers for any calendar
20 year. If the department receives applications for the credit sufficient
21 to exceed this amount, the department shall by rule proportionately
22 reduce the amount of certified credits among all taxpayers applying
23 for the credit.

24 “SECTION 12. Section 8 of this 2022 Act applies to tax years begin-
25 ning on or after January 1, 2023.

26 “SECTION 12a. Following receipt of a report required under section
27 6a of this 2022 Act and submitted to a regular or interim committee
28 of the Legislative Assembly, the Legislative Assembly shall consider
29 making adjustments to the structure of the credit allowed under sec-
30 tion 8 of this 2022 Act and shall revise the credit rate amounts provided

1 in section 9 of this 2022 Act, if deemed appropriate by the Legislative
2 Assembly.

3 **“SECTION 12b. Notwithstanding any provision of ORS 314.835 or
4 314.840, the Department of Revenue and the Bureau of Labor and In-
5 dustries may share information necessary for the effective adminis-
6 tration of sections 2 and 8 of this 2022 Act, for the purpose of carrying
7 out the provisions of sections 2 and 8 of this 2022 Act, provided that
8 the department and the bureau do not disclose personally identifiable
9 information.”.**

10
